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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/633,767

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Douglas Dykeman

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07/26/2005

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EXAMINER

HO, DUC CHI

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/633,767

Applicant(s)

DYKEMAN ET AL.

Examiner

Duc C. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-12, 14-21, 23-25 and 27-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 14-21, 23-25 and 27-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1-8, 10-12, 14-21, 23-25, and 27-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended limitation "examining possible routes closet to the destination node" to claims 1, 14, and 27-29 appear to lack adequate support from the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8, 10-12, 14-21, 23-25, and 27-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the claim is indefinite. The amended limitation seems to be disjoint and unrelated makes the scope of claim being impossible to ascertain. Claim 1 recites "the route" of the limitation "selecting at least one non-access element of the route used by the failed connection in said network structure" in lines 9-10. It is unclear as to what is the relation between the "at least one non sole-access element of the route" and the "possible routes closet to the destination node" in line 8, in order to provide alternative routing of a connection in an iterative method between a source node a destination node in a PNNI hierarchical network? The same remark applies to claims 14, and 27-29

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 10-12, 14-21, 23-25, and 27-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Srinivasan et al. (U.S. 6,304,549), hereinafter referred to as Srinivasan.

Regarding claims 1, 14, and 27-31, Srinivasan discloses responding to a failed connection between a source and destination node due to a sole-access

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element of a network structures as seen by the source node (co. 16, lines 56-61 and col. 17, lines 22-25), examining possible routes closest to the destination node (col. 10, lines 16-31), selecting at least one none-access element of the route used by a failed connection in a network structure (col. 10, lines 5-25), identifying an alternative route for the connection in the network structure which does not utilize the at least one selected element and using the alternative route for establishment of the connection between the nodes (col. 10, lines 25-31). Srinivasan also discloses a topology database for storing information regarding possible routes expressed as Designated Transit Lists (DTLs) (col.10, lines 16-19). Srinivasan also discloses that when a switch is the cause of failure, it is equivalent to the failure all of the links around the failed switch, thus these links are not parts of the possible routes mentioned above for establishing an alternative route, but rather represent non-sole-access links that are not chosen as alternate paths (col. 17, lines 30-35).

Regarding claims 2, and 15, Srinivasan discloses determining whether an alternative route has enough bandwidth to support the connection (col. 10, lines 25-31), which meets the limitation of checking whether the alternative route satisfies a set of predetermined connection constraints.

Regarding claims 3, and 16, Srinivasan discloses that the element is a link of the network structure (col. 10, lines 25-31).

Regarding claims 4, and 17, Srinivasan discloses selecting all non-sole-access links of the route used by the failed connection that are outside the PNNI peer group of the source node (col. 14-line 62 to col. 15-line 17).

Regarding claims 5, 6, 8, 18, 19, and 21, Srinivasan discloses that for multi-peer group connections, the selection of alternative routes and attempting to setup an alternative route occur in each peer group along the whole route of

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the Virtual Path Connection (VPC) (col. 14-line 62 to col. 15-line 17). This meets the limitation of selecting from the set of all non-sole-access links outside of the peer group of the source node the link that is closet to a predetermined one of the source and destination nodes. In this case, the alternative route selection begins in the peer group of the source node, the moves onto the next peer group, the one closet to the peer group of the source node. The first link examined in this next peer group represent the closet links of the non-sole-access links outside of the source node peer group. This alternative route selection procedure propagates along the entire path to the destination node.

Regarding claims 7, and 20, as mentioned above, Srinivasan discloses that route selection procedure includes determining if a possible route has enough bandwidth to support the connection (col. 10, lines 25-31).

Regarding claims 10, 12, 23, and 25, Srinivasan discloses continuing to try different alternate routes in the set of possible routes if an attempted connection in a particular peer group fails (col. 11-line 62 to col. 12-line 3). Srinivasan discloses an example wherein a link between A.2.1 and A.3.2 connecting the A.2 and A.3 peer groups is not used due to lack of bandwidth, thus the link between A.2.4 and B.3.3 connecting the A.2 and B peer group is used (col. 10-line 45 to col.12-line 3). This link clearly does not utilize the closest link. Whenever a connection attempt fails, another possible route is chosen (col. 11, lines 29-35).

Regarding claims 11, and 24, as mentioned above, Srinivasan discloses that the route selection procedure includes determining if a possible route has enough bandwidth to support the connection (col. 10, lines 25-31).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTHS shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136 (a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Ho whose telephone number is (571) 272-3147. The examiner can normally be reached on Monday through Friday from 7:00 am to 3:30 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner



Duc Ho

07-20-05